

U.S. Serial No. 10/612,082
Filed: July 2, 2003

P8792.05

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REMARKS

Claims 103-112 are pending in the application.

Claim Rejections - 35 U.S.C. §102(e)

The Examiner rejected claims 103-112 under 35 USC §102(e) as being anticipated by Zilla et al. (U.S. Patent No. 6,554,857). Applicants respectfully traverse the rejection on the grounds that Zilla et al. does not qualify as prior art under 35 USC §102(e).

To be prior art under 35 USC §102(e), the invention must be described in "a patent granted on an application for patent filed by another in the United States before the invention by applicant for patent." Zilla et al. was filed on November 5, 1999, based on a provisional application No. 60/144,703 filed July 20, 1999. The priority data listed on the face page of Zilla et al., in which the filing date of provisional application No. 60/144,703 is given as "Feb. 20, 1999," is an error. Applicants draw the Examiner's attention to the following attached documentation demonstrating that the filing date of provisional application No. 60/144,703 was July 20, 1999:

1. The filing receipt of provisional application No. 60/144,703 stating it was filed "07/20/99";
2. The filing receipt of the nonprovisional application Serial No. 09/434,069, filed November 5, 1999, claiming priority to "PROVISIONAL APPLICATION NO. 60/144,703 07/20/99"; and
3. A printout from PAIR for Zilla et al. under the Continuity Data tab showing the filing date of provisional application No. 60/144,703 as "07-20-1999."

Because the earliest priority date for Zilla et al. for purposes of 35 USC §102(e) is July 20, 1999, and the pending application claims priority to provisional application No. 60/144,704 filed July 20, 1999, i.e., the same day, Zilla et al. was not filed "before" the filing date of the present application as required by 35 USC §102(e), and therefore, Zilla et al. is unavailable as prior art against the present application.

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Applicants also note that Zilla et al. was cited to the Examiner in a supplemental IDS filed in the original parent application, Serial No. 09/434,649, now issued as U.S. Patent No. 6,702,848. See MPEP 609.02(A)(2).

In light of the above comments, Applicants believe that the rejection over Zilla et al. has been overcome, and respectfully request that the rejection over Zilla et al. be withdrawn and that claims 103-112 proceed to issuance.

The Examiner is encouraged to contact the attorney of record at the telephone number listed below if there are any further questions.

Respectfully submitted for,

Zilla, et al.

Date: Sept. 29, 2006



David P. Ruschke, Reg. No. 40,151
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Customer Number 27581
Telephone Number 763-505-2913

PTO-103P
(Rev. 6-89)PROVISIONAL APPLICATION
FILING RECEIPT
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 Patent and Trademark Office
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 Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
60/144,703	07/20/99		\$150.00	P-8794.00	0		

 MUETING RAASCH & GEBHARDT P A
 P O BOX 581415
 MINNEAPOLIS MN 55458-1415

134.01440160

6 mo rem.	1/20/00	8 mo ff	3/20/00
9 mo	4/20/00	10 mo ff	5/20/00
11 mo	6/20/00	11 mo ff	6/20/00
Conw.	7/20/00	Conw.	7/20/00

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Applicant(s) PETER ZILLA, CAPETOWN, SOUTH AFRICA; DEON BEZUIDENHOUT, STELLENBOSCH, SOUTH AFRICA; THERESA DOWER, HOUT BAY, SOUTH AFRICA.

IF REQUIRED, FOREIGN FILING LICENSE GRANTED 08/04/99

TITLE

TRANSMURAL CONCENTRIC MULTILAYER INGROWTH MATRIX WITHIN WELL-DEFINED POROSITY

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AUG 09 1999

MUETING AND RAASCH

DATA ENTRY BY: YON, LOWUAN

TEAM: 05 DATE: 08/04/99

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APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
09/434,069	11/05/99	1773	\$2,314.00 P-8794		3	102	4

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7000 CENTRAL AVENUE NE
MINNEAPOLIS MN 55432

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BEZUIDENHOUT, STELLENBOSCH, SOUTH AFRICA; THERESA YVONNE
DOWER, HOUT BAY, SOUTH AFRICA.

CONTINUING DATA AS CLAIMED BY APPLICANT-
PROVISIONAL APPLICATION NO. 60/144,703 07/20/99

IF REQUIRED, FOREIGN FILING LICENSE GRANTED 12/10/99

TITLE

TRANSMURAL CONCENTRIC MULTILAYER INGROWTH MATRIX WITHIN WELL-DEFINED
POROSITY

PRELIMINARY CLASS: 428

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TEAM: 04 DATE: 12/10/99

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09/434,069 TRANSMURAL CONCENTRIC MULTILAYER INGROWTH MATRI
 POROSITY

Application Data	Transmittal History	Parent Term Extension History	Continuity Data	Published Documents	Fees	Attorney Fee
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Parent Continuity Data

Description	Parent Number	Parent Filing or Date
This application Claims Priority from Provisional Application	60/144,703	07-20-1999

Child Continuity Data

10/142,957 filed on 05-10-2002 which is Patented claims the benefit of 09/434,069

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